

Application No. 10/003,471
Amendment Dated: August 6, 2007
Response to Office Action of April 6, 2007
Attorney Docket No.: C063

Remarks/Arguments:

Specification

The Examiner notes that under 37 C.F. R. 1.72, the title of the invention should be descriptive, brief and technically accurate. The Examiner does not indicate whether, or in what way, the present title does not meet those requirements. It seems to applicants that the title is descriptive, brief and technically accurate, and applicants request clarification from the Examiner if he considers that the title needs to be changed.

Claims

Claims 1-18 are pending in the application. Claims 1, 5, 13, 14, and 15 are in independent form.

General Comments

The Examiner states that with regard to claims 1 and 6, it is unclear how confirming by e-mail is being performed. Claim 1 and 6 are not rejected or objected to. Applicants submit that they are not required to limit the claim to any particular method of performing the confirmation.

Objections

Claim 13 is objected to as an improper dependent claim. Claim 13 has been amended to be independent.

Claim Rejections Under 35 U.S.C. § 112

Claim 10 is being rejected under 35 U.S.C. 112, second paragraph as being indefinite for using the auxiliary verb "can." Amended claim 10 does not use the auxiliary verb "can."

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-13 are being rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,062,462 to Ireland et al. ("Ireland").

Ireland teaches a method and apparatus that enables a user to receive a financial aid

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package from an educational institution. Col. 1, lines 15-21. Ireland does not address how the financial aid is awarded.

Ireland, the primary reference, does not teach any of the elements of claim 1. Ireland does not teach "providing a form for use in nominating a scholarship recipient nominee." Ireland does not teach "nominating a scholarship recipient nominee." Ireland does not teach "contacting the nominee to confirm that the nominee accepts the nomination." Ireland does not teach "providing a form for voting for a nominee." Ireland does not teach "posting the form to vote for a nominee." Ireland does not teach "confirming the vote using electronic mail." Ireland does not teach "awarding a scholarship to the nominee satisfying a voting criterion."

The Examiner states, however, that receiving a nomination on behalf of any other person is old and well known. Applicants are not claiming "receiving a nomination on behalf of any other person." Applicants in claim 5 are claiming a method of awarding a scholarship, including specific steps of "awarding the scholarship to the nominee satisfying a voting criterion." Applicants in claim 1 are claiming a method of increasing traffic on a web site.

Scholarships have traditionally been awarded based upon need or merit after completion of complex financial aid forms. Need-based scholarships allow individuals to attend college who would not otherwise have the financial ability. Merit based scholarships attract top students that will bring prestige to the college. The Examiner has not cited any reference showing a reason why a skilled person would deviate from the long-established bases for awarding scholarships. The Examiner has provided no reference in which scholarships are awarded based on internet nominations and votes. Applicants have altered the time-honored methods of awarding scholarships, in part, as a method of increasing internet traffic at college related site. Applicants submit that this method is novel and was not obvious as of applicants' February 2001 filing date.

The Examiner cites the process by which elected officials are elected in the USA. However, elected officials in the USA are, to applicants knowledge, not nominated over the web and to applicants knowledge, people do not vote over the web for elected officials. The Examiner cites multiple awards, such as the Tony award, Grammy award, Nobel Prize, NBA

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MVP, Teacher of the Year awards, etc. The Examiner provides no evidence to show that any of these awards used internet nomination and voting before applicants' filing date. Even if the awards had used Internet nomination and voting, skilled persons had no reason to apply Internet nomination and voting to the field of scholarships.

MPEP 2144.03A states: "It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." Applicants submit that the primary reference, Ireland, teaches none of the claim elements of the independent claims, and the Examiner is improperly relying on "common knowledge" to supply the entire substance of the rejection.

The Examiner states on page 8 that "local, State-wide, primary and general elections can be conducted over the Internet, wherein a voter, using a computer, can vote or nominate a candidate or a second person for a post or a position in the privacy of his own home." It is not clear to applicants that voters were nominating and voting in democratic elections before applicants' filing date.

Applicants respectfully traverse the "official notice." MPEP 2144.03A states: "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. As explained above, in the rapidly changing field of the computers, what appears "well known" today may not have been obvious six years ago. Applicants request that the Examiner provide evidence of the noticed facts, as required by MPEP 2144.03C, which states: "If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." The Examiner states that "it is well established in the industry, for example, that the National Basketball Association (NBA) received nominations, via a form posted on its site, for players for different posts who will compose the All-Star Western and Eastern squads . . ." Applicants do

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not known that such voting occurred before applicants filing date, and respectfully requests the Examiner provide evidence if he chooses to maintain the rejection.


Claim 16 states that the nominations are received from anyone having internet access. There is no evidence that awards, such as the Nobel Prize, the Grammy awards and the Tony awards, allow anyone having internet access to nominate a candidate. Similarly, there is no evidence that in a democratic election, a candidate can be nominated by anyone having internet access by posting a web form. Claim 17 states that any college student or prospective college student can be nominated. There is no evidence that the awards and prizes described above allow such open nomination via the Internet.

Applicants do not claim to have invented voting; applicants have invented methods of awarding scholarships and of increasing traffic on a college-related web site that include voting as an element of the claims.

Applicants submit that all claims are now allowable and respectfully requests reconsideration and allowance of the application.

Respectfully submitted,

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By: 
Michael O. Scheinberg
Patent Attorney
Pat. Reg. No. 36,919
P.O. Box 164140
Austin, Texas 78716-4140
Telephone: (512) 637-0800
Facsimile: (512) 306-1963